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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/880,848

Applicant(s)

STALLWORTH, F. DAVID

Examiner

JAMES SHELEHEDA

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 July 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 2, 5-26 and 29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 5-26 and 29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/C2)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 07/18/08 has been entered.

Response to Arguments

2. Applicant's arguments with respect to a packetized data signal and service provider have been considered but are moot in view of the new ground(s) of rejection.
3. Applicant's arguments with respect to the combination of Tomich and Farber have been fully considered but they are not persuasive.

In response to applicant's arguments on pages 10-12, it is noted that Tomich discloses wherein the incoming signal (58) is received and demultiplexed (Fig. 4; column 5, lines 39-57). After demultiplexing, the television signals are transmitted *both* to the user equipment and back upstream to a multiplexer (72; Fig. 4; column 5, lines 49-57). User specific data is removed and routed to the appropriate user equipment or transmitted back upstream (Fig. 4; column 6, lines 11-54). New user data is received

from the *plurality of user devices* and inserted into the upstream signal (column 6, lines 11-46).

Thus, Tomich discloses a system which is able to receive the combined signal, demultiplex the combined signal and then both transmit the signal upstream to the next unit and route the demultiplexed video and data to the appropriate devices.

Tomich fails to disclose that the plurality of devices belong to more than one subscriber.

Farber discloses a system wherein a single unit will receive and separate signals for use by plural subscribers within a single floor of an apartment building.

Thus, the combination of Tomich and Farber provides for a system which is able to receive, demultiplex a combined signal and then the demultiplexed video and data to the appropriate subscribers.

Applicant's arguments are not convincing.

Applicant argues that the microcontroller, 74, of Tomich is "unavoidably specific to the subscriber) but provides no reasoning as to why. The only "specifics" involved for the microcontroller are the codes that are programmed into it (column 6, lines 11-25). The microcontroller is disclosed as being capable of receiving, analyzing and then correctly routing the received data to any of multiple phones, fax machines, personal computers and auxiliary lines based upon the appropriate home code (column 6, lines 11-25). Thus, in combination with Farber, allowing for multiple subscribers in a single floor of a building, the device would be capable of receiving, analyzing and then

correctly routing the received data to any of multiple phones, fax machines, personal computers and auxiliary lines based upon the appropriate subscriber's home code.

Therefore, applicant's arguments are not convincing.

In response to applicant's arguments regarding redundant data and video, see above, where it has been shown that redundant signals would not exist. Each subscriber would receive their own copy of the incoming video and data signals. The only signals received for transmission from each individual subscriber would consist of that subscribers new voice or data transmissions.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 17 and 19 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 17 recites wherein "the first signal is a packetized data signal, the second signal is a video signal..." which is not supported by the specification as originally filed.

Independent claim 11, at line 5 and 8, defines the first signal as a video signal and the second signal as a telephony signal.

The specification as originally fails to provide support for the first signal being *both* "a packetized data signal" and a "video signal" and the second signal being *both* "a telephony signal" and a "video signal".

Claim 19 recites wherein "the first signal is a telephony signal, the second signal is a video signal..." which is not supported by the specification as originally filed.

Independent claim 11, at line 5 and 8, defines the first signal as a video signal and the second signal as a telephony signal.

The specification as originally fails to provide support for the first signal being *both* "a telephony signal" and a "video signal" and the second signal being *both* "a video signal" and a "telephony signal".

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tomich et al. (Tomich) (5,983,068) (of record) in view of Farber et al. (Farber) (6,486,907) (of record).

As to claim 11, while Tomich discloses a method for delivering to a plurality of subscribers a first signal that is subject to right-of-way franchise fees (Fig. 1; column 3, lines 31-49), wherein the method:

(a) transmitting a second signal and a third signal from a first side of the right of way (phone and cable, 108 and 110; column 4, lines 10-23, Fig. 1), through the right of way, to a second side of the right of way, wherein the first side is opposite the second side, the second signal comprising at least a voice signal (PSTN telephone signals; column 4, lines 10-24);

(b) receiving via a wireless communication the first signal on the second side of the right-of-way such that the first signal does not pass through the right-of-way (wireless signal received on the private residential property; Fig. 1), the first signal comprising at least a video signal (satellite video; column 4, lines 10-23),

(c) combining the first signal, the second signal and the third signal into a combined signal on the second side of the right of way (column 8, lines 26-46 and column 7, lines 54-61),

(d) routing the combined signal in the direction of the subscriber (Fig. 1; column 8, lines 26-46 and column 7, lines 54-61), wherein the subscriber is on the second side of the right-of-way (residential neighborhood; Fig. 1);

(e) separating the combined signal into the first signal, the second signal and the third signal using an optical network unit (column 4, lines 24-47 and column 5, lines 36-57); and

(f) routing the first signal, the second signal and the third signal to the subscriber (Fig. 2; column 5, lines 36-57), he fails to specifically disclose wherein the optical network unit is directed coupled to the plurality of subscribers.

In an analogous art, Farber discloses a video distribution system (Fig. 1-2; column 4, lines 17-61) wherein signals are transmitted to an optical network unit directed coupled to a plurality of subscribers (16, 46; Fig. 1-2; column 4, line 40-column 5, line 9 and column 6, lines 43-56) for the typical benefit of providing programming to a plurality of subscribers in a multi-unit dwelling (Fig. 1-2; column 4, lines 17-24).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Tomich's system to include wherein the optical network unit is directed coupled to the plurality of subscribers, as taught in combination with Farber, for the typical benefit of providing programming to a plurality of subscribers in a multi-unit dwelling.

As to claim 12, Tomich and Farber disclose wherein the wireless communication is satellite communication (column 4, lines 10-24), and wherein receiving the first signal comprises receiving the first signal with a satellite receiver located on the second side of the right of way (at satellite dish, 102 or 104 at the local residential head end; column 4, lines 10-24).

8. Claims 1, 2, 5, 6, 8, 10, 17-20, 21, 24, 25, 26, 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tomich in view of Farber and Wagner et al. (Wagner) (5,761,602).

As to claim 1, while Tomich discloses a system for delivering to a plurality of subscribers located on a second side of a right of way a video signal that is free from a right-of-way franchise fee (Fig. 1; column 3, lines 31-49), the system comprising:

(a) a central office located on a first side of a right-of-way (service providers providing the television, phone or data signals located outside of the local neighborhood; column 4, lines 10-23, Fig. 1);

(b) a multiplexer in communication with the central office (Fig. 1 and 6; head end unit, 20; column 8, lines 26-46), wherein the central office transmits a telephony signal to the multiplexer (transmitting the wired phone signals; Fig. 6; column 4, lines 10-23), the multiplexer being located on the second side of the right-of-way opposite the first side such that the telephony signal must cross the right-of-way to reach the multiplexer (the head end unit, 20, being located on the private residential property; Fig. 1);

(c) a wireless receiver located on the second side of the right-of-way (102, 104, 106, Fig. 6), the wireless receiver receiving the video signal and transmitting the video signal to the multiplexer (column 8, lines 26-46 and column 4, lines 10-24), the multiplexer combining the video signal and the telephony signal into a combined signal for routing to the subscriber (column 8, lines 26-46 and column 7, lines 54-61),

(d) an optical network unit on the second side of the right of way in communication with the multiplexer (within the user set top box, 24; column 4, lines 37-

47), and in communication with the subscriber (Fig. 2; column 4, lines 24-37), wherein the unit separates the combined signal into the video signal and telephony (column 5, lines 36-57), he fails to specifically disclose wherein the optical network unit is directed coupled to the plurality of subscribers and wherein the central office transmits a packetized data signal.

In an analogous art, Farber discloses a video distribution system (Fig. 1-2; column 4, lines 17-61) wherein signals are transmitted to an optical network unit directed coupled to a plurality of subscribers (16, 46; Fig. 1-2; column 4, line 40-column 5, line 9 and column 6, lines 43-56) for the typical benefit of providing programming to a plurality of subscribers in a multi-unit dwelling (Fig. 1-2; column 4, lines 17-24).

Additionally, in an analogous art, Wagner discloses a video distribution system (Fig. 1; column 3, lines 27-46) wherein a central office (PSTN; column 3, lines 28-48) will transmit both telephony and packetized data signals to the user (column 3, line 28-48 and column 6, lines 6-14) for the typical benefit of providing the user with access to Internet communications using simple low cost architecture (column 1, lines 14-44 and column 4, lines 28-52).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Tomich's system to include wherein the optical network unit is directed coupled to the plurality of subscribers, as taught in combination with Farber, for the typical benefit of providing programming to a plurality of subscribers in a multi-unit dwelling.

Additionally, it would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Tomich and Farber's system to include wherein the central office transmits a packetized data signal, as taught in combination with Wagner, for the typical benefit of providing the user with access to Internet communications using simple low cost architecture.

As to claim 2, Tomich, Farber and Wagner disclose wherein the optical network unit receives the combined signal (column 4, lines 24-47 and column 5, lines 36-57) and de-multiplexes the combined signal into the video signal, telephony signal and the packetized data signal (column 5, lines 36-57) and routes the video signal, telephony signal and packetized data signal to the plurality of subscribers (Fig. 2; column 5, lines 36-57).

As to claim 5, Tomich, Farber and Wagner disclose wherein the wireless receiver receives the video signal as an electronic signal (column 4, lines 10-23) and converts the signal to a fiber optical signal to deliver the video signal through a fiber optic strand to the multiplexer (column 4, lines 10-43).

As to claim 6, Tomich, Farber and Wagner disclose wherein the wireless receiver is a radio receiver (RF satellite and wireless receivers; column 4, lines 10-23).

As to claim 8, Tomich, Farber and Wagner disclose wherein the video signal is transmitted over a first wavelength and wherein the telephony signal is transmitted over a second wavelength that is different then from the first wavelength (wherein the signal types have different transmission frequencies and thus different wavelengths; column 4, lines 10-23).

As to claim 10, Tomich, Farber and Wagner disclose wherein the right-of-way franchise fee is imposed by a local governing authority (wherein a right-of-way franchise fee *is* a government imposed fee).

As to claims 17, 18 and 19, while Tomich and Farber disclose wherein the first signal or second signal is a video signal (satellite or cable; column 4, lines 10-23) and the first, second or third signal is a telephony signal (cellular or PSTN; column 4, lines 10-23), they fail to specifically disclose wherein the first or third signal is a packetized data signal.

In an analogous art, Wagner discloses a video distribution system (Fig. 1; column 3, lines 27-46) which will transmit packetized data signals to the user (column 3, line 28-48 and column 6, lines 6-14) via a wireless or wired connection (column 3, lines 27-46, column 4, lines 14-40) for the typical benefit of providing the user with access to Internet communications using simple low cost architecture (column 1, lines 14-44 and column 4, lines 28-52).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Tomich and Farber's system to include wherein the first or third signal is a packetized data signal.

As to claim 20, while Tomich discloses a method for delivering to a plurality of subscriber a first signal that is free of right-of-way franchise fees (Fig. 1; column 3, lines 31-49), wherein the method comprises:

(a) transmitting a second signal from a central office through a right of way (service providers providing the television, phone or data signals located outside of the local neighborhood; column 4, lines 10-23, Fig. 1) to a multiplexer (column 8, lines 26-46 and column 7, lines 54-61), wherein the central office is located on a first side of the right of way and the multiplexer is located on a second side of the right of way opposite the first side (column 4, lines 10-23, Fig. 1),

(b) receiving the first signal at a wireless receiver (102, 104 and 106), located on the second side of the right-of-way (wireless signal received on the private residential property; Fig. 1),

(c) transmitting the first signal from the wireless receiver to the multiplexer (column 8, lines 26-46 and column 7, lines 54-61) without crossing the right of way (Fig. 6);

(d) combining the first signal and the second signal into a combined signal at the multiplexer (column 8, lines 26-46 and column 7, lines 54-61);

(e) routing the combined signal from the multiplexer to a local terminal (Fig. 1; column 8, lines 26-46 and column 7, lines 54-61) that is located on the second side of the right of way (residential neighborhood; Fig. 1);

(f) separating the combined signal into the first signal and the second signal at the local terminal by an optical network unit (column 4, lines 24-47 and column 5, lines 36-57); and

(f) routing the first signal and the second signal from the local terminal to the subscriber (Fig. 2; column 5, lines 36-57) wherein the subscriber is located on the second side of the right-of-way (residential neighborhood; Fig. 1), he fails to specifically disclose wherein the optical network unit is directed coupled to the plurality of subscribers and wherein the central office transmits a third signal.

In an analogous art, Farber discloses a video distribution system (Fig. 1-2; column 4, lines 17-61) wherein signals are transmitted to an optical network unit directed coupled to a plurality of subscribers (16, 46; Fig. 1-2; column 4, line 40-column 5, line 9 and column 6, lines 43-56) for the typical benefit of providing programming to a plurality of subscribers in a multi-unit dwelling (Fig. 1-2; column 4, lines 17-24).

Additionally, in an analogous art, Wagner discloses a video distribution system (Fig. 1; column 3, lines 27-46) wherein a central office (PSTN; column 3, lines 28-48) will transmit both telephony and packetized data signals to the user (column 3, line 28-48 and column 6, lines 6-14) for the typical benefit of providing the user with access to Internet communications using simple low cost architecture (column 1, lines 14-44 and column 4, lines 28-52).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Tomich's system to include wherein the optical network unit is directed coupled to the plurality of subscribers, as taught in combination with Farber, for the typical benefit of providing programming to a plurality of subscribers in a multi-unit dwelling.

Additionally, it would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Tomich and Farber's system to include wherein the central office transmits a third signal, as taught in combination with Wagner, for the typical benefit of providing the user with access to Internet communications using simple low cost architecture.

As to claim 21, Tomich, Farber and Wagner disclose wherein the wireless receiver is a satellite receiver (column 4, lines 10-23) and receiving the first signal comprises receiving the first signal in a satellite communication and converting the first signal from an electronic signal to a fiber optical signal (column 4, lines 10-43).

As to claim 24, Tomich, Farber and Wagner disclose wherein the first signal is a video signal (column 4, lines 10-23), the second signal is a telephony signal (PSTN; column 4, lines 10-23) and the third signal is a packetized data signal (see Wagner at column 3, lines 27-46 and column 4, lines 14-28).

As to claim 25, Tomich, Farber and Wagner disclose wherein the first signal is a telephony signal (column 4, lines 10-23), the second signal is a video signal (column 4, lines 10-23) and the third signal is a packetized data signal (see Wagner at column 3, lines 27-46 and column 4, lines 14-28).

As to claim 26, while Tomich discloses a system for delivering to a plurality of subscribers a video signal that is otherwise subject to right-of-way franchise fees (Fig. 1; column 3, lines 31-49), wherein the system comprises:

(a) means for transmitting a telephony signal through the right of way from a first side of a right of way (PSTN; column 4, lines 10-23, Fig. 1), to a second side of the right of way (column 8, lines 26-46 and column 7, lines 54-61), wherein the first side is opposite the second side (column 4, lines 10-23, Fig. 1),

(b) means for via a wireless communication (102, 104 and 106) the video signal on the second side of the right-of-way such that the first side does not pass through the right of way (wireless signal received on the private residential property; Fig. 1; satellite; column 4, lines 10-23),

(c) means for combining the video signal and the telephony signal into a combined signal on the second side of the right of way (multiplexer; column 8, lines 26-46 and column 7, lines 54-61);

(d) means for routing the combined signal in the direction of the plurality of subscribers (Fig. 1; column 8, lines 26-46 and column 7, lines 54-61), wherein the

plurality of subscribers are on the second side of the right of way (residential neighborhood; Fig. 1);

(e) an optical network unit for separating the combined signal into the video signal and the telephony signal (column 4, lines 24-47 and column 5, lines 36-57); and

(f) means for routing the video signal and the telephony signal to the subscriber (Fig. 2; column 5, lines 36-57), he fails to specifically disclose wherein the optical network unit is directed coupled to the plurality of subscribers and transmitting a packetized data signal.

In an analogous art, Farber discloses a video distribution system (Fig. 1-2; column 4, lines 17-61) wherein signals are transmitted to an optical network unit directed coupled to a plurality of subscribers (16, 46; Fig. 1-2; column 4, line 40-column 5, line 9 and column 6, lines 43-56) for the typical benefit of providing programming to a plurality of subscribers in a multi-unit dwelling (Fig. 1-2; column 4, lines 17-24).

Additionally, in an analogous art, Wagner discloses a video distribution system (Fig. 1; column 3, lines 27-46) wherein a central office (PSTN; column 3, lines 28-48) will transmit both telephony and packetized data signals to the user (column 3, line 28-48 and column 6, lines 6-14) for the typical benefit of providing the user with access to Internet communications using simple low cost architecture (column 1, lines 14-44 and column 4, lines 28-52).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Tomich's system to include wherein the optical network unit is directed coupled to the plurality of subscribers, as taught in combination with

Farber, for the typical benefit of providing programming to a plurality of subscribers in a multi-unit dwelling.

Additionally, it would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Tomich and Farber's system to include wherein the central office transmits a packetized data signal, as taught in combination with Wagner, for the typical benefit of providing the user with access to Internet communications using simple low cost architecture.

As to claim 29, Tomich, Farber and Wagner disclose wherein the first signal, the second signal and the third signal each originate from the same service provider (see Wagner at Fig. 1).

9. Claims 7, 9, 22 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tomich, Farber and Wagner and further in view of Applicant's admitted prior art.

As to claim 7, while Tomich, Farber and Wagner disclose a multiplexer to combine video and data signals, they fail to specifically disclose a wave division multiplexer.

Applicant's conceded that the prior art discloses the use of a wave division multiplexer (see specification at page 5, paragraph 13) when combining video and data signals for distribution over an optical network (see specification at page 5, paragraph 13) which is smaller and lighter than traditional copper and coaxial cables but can carry

much more information (see specification at page 2, paragraph 2) to transmit the video and data signals over different frequencies (see specification at page 5, paragraph 13) for the benefit of ensuring that the data and video signals to be distinguished from one another over a fiber optic wire (paragraph 13) which carries more information over a smaller lighter wire (paragraph 2).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Tomich, Farber and Wagner's system to include a wave division multiplexer, as taught by applicant's conceded prior art, for the benefit of ensuring that the data and video signals to be distinguished from one another when transmitting over a fiber optic wire.

As to claim 9, while Tomich, Farber and Wagner disclose a multiplexer to combine a first video signal and a second data signal at different wavelengths, they fail to specifically disclose wherein the first signal is transmitted over a 1550 nanometer wavelength and the second signal is transmitted over a 1310 nanometer wavelength.

Applicant's conceded that the prior art discloses the use of multiplexer (see specification at page 5, paragraph 13) when combining video and data signals for distribution over an optical network (see specification at page 5, paragraph 13) which is smaller and lighter than traditional copper and coaxial cables but can carry much more information (see specification at page 2, paragraph 2) to transmit a first video signal over a 1550 nanometer wavelength (see specification at page 5, paragraph 13) and a second data signal over a 1310-nanometer wavelength (see Applicant's specification at

page 5, paragraph 13) for the benefit of ensuring that the data and video signals to be distinguished from one another over a fiber optic wire (paragraph 13) which carries more information over a smaller lighter wire (paragraph 2).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Tomich, Farber and Wagner's system to include wherein the first signal is transmitted over a 1550 nanometer wavelength and the second signal is transmitted over a 1310 nanometer wavelength, as taught in combination with applicant's conceded prior art, for the benefit of ensuring that the data and video signals to be distinguished from one another when transmitting over a fiber optic wire.

As to claim 22, while Tomich, Farber and Wagner disclose a multiplexer to combine video and data signals, they fail to specifically disclose a wave division multiplexer.

Applicant's conceded that the prior art discloses the use of a wave division multiplexer (see specification at page 5, paragraph 13) when combining video and data signals for distribution over an optical network (see specification at page 5, paragraph 13) which is smaller and lighter than traditional copper and coaxial cables but can carry much more information (see specification at page 2, paragraph 2) to transmit the video and data signals over different frequencies (see specification at page 5, paragraph 13) for the benefit of ensuring that the data and video signals to be distinguished from one

another over a fiber optic wire (paragraph 13) which carries more information over a smaller lighter wire (paragraph 2).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Tomich, Farber and Wagner's system to include a wave division multiplexer, as taught by applicant's conceded prior art, for the benefit of ensuring that the data and video signals to be distinguished from one another when transmitting over a fiber optic wire.

As to claim 23, while Tomich, Farber and Wagner disclose wherein separating the combined signals comprises transmitting the combined signal to a de-multiplexer that separates the combined signal into the first signal and the second signal (column 5, lines 37-57), they fail to specifically disclose a wave division de-multiplexer.

Applicant's conceded that the prior art discloses the use of a wave division multiplexer (see specification at page 5, paragraph 13) when combining video and data signals for distribution over an optical network (see specification at page 5, paragraph 13) which is smaller and lighter than traditional copper and coaxial cables but can carry much more information (see specification at page 2, paragraph 2) to transmit the video and data signals over different frequencies (see specification at page 5, paragraph 13) to a wave division de-multiplexer (required to separate the wave division multiplexed signals; see Applicant's specification at paragraphs 13-14) for the benefit of ensuring that the data and video signals to be distinguished from one another over a fiber optic

wire (paragraph 13) which carries more information over a smaller lighter wire (paragraph 2).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Tomich, Farber and Wagner's system to include a wave division de-multiplexer, as taught by applicant's conceded prior art, for the benefit of ensuring that the data and video signals to be distinguished from one another when transmitting over a fiber optic wire.

10. Claims 13-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tomich and Farber and further in view of Applicant's admitted prior art.

As to claim 13, while Tomich and Farber disclose wherein combining the first and second signal comprises receiving the first signal and the second signal at a multiplexer and multiplexing the first signal with the second signal using the multiplexer, they fail to specifically disclose a wave division multiplexer.

Applicant's conceded that the prior art discloses the use of a wave division multiplexer (see specification at page 5, paragraph 13) when combining video and data signals for distribution over an optical network (see specification at page 5, paragraph 13) which is smaller and lighter than traditional copper and coaxial cables but can carry much more information (see specification at page 2, paragraph 2) to transmit the video and data signals over different frequencies (see specification at page 5, paragraph 13) for the benefit of ensuring that the data and video signals to be distinguished from one

another over a fiber optic wire (paragraph 13) which carries more information over a smaller lighter wire (paragraph 2).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Tomich and Farber's system to include a wave division multiplexer, as taught by applicant's conceded prior art, for the benefit of ensuring that the data and video signals to be distinguished from one another when transmitting over a fiber optic wire.

As to claim 14, Tomich, Farber and Applicant's admitted prior art disclose wherein routing the combined signal comprises routing the combined signal from the wave division multiplexer to a splitter that is in communication with the subscriber (see Tomich at column 5, lines 37-57).

As to claim 16, Tomich, Farber and Applicant's admitted prior art disclose wherein the splitter includes a wave division de-multiplexer (required to separate the wave division multiplexed signals; see Applicant's specification at paragraphs 13-14), and the step of separating the combined signal comprises separating the combined signal with the wave division de-multiplexer (required to separate the wave division multiplexed signals; see Applicant's specification at paragraphs 13-14).

As to claim 15, while Tomich and Farber disclose wherein separating the combined signals comprises transmitting the combined signal to a de-multiplexer that

separates the combined signal into the first signal and the second signal (column 5, lines 37-57), they fail to specifically disclose a wave division de-multiplexer.

Applicant's conceded that the prior art discloses the use of a wave division multiplexer (see specification at page 5, paragraph 13) when combining video and data signals for distribution over an optical network (see specification at page 5, paragraph 13) which is smaller and lighter than traditional copper and coaxial cables but can carry much more information (see specification at page 2, paragraph 2) to transmit the video and data signals over different frequencies (see specification at page 5, paragraph 13) to a wave division de-multiplexer (required to separate the wave division multiplexed signals; see Applicant's specification at paragraphs 13-14) for the benefit of ensuring that the data and video signals to be distinguished from one another over a fiber optic wire (paragraph 13) which carries more information over a smaller lighter wire (paragraph 2).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Tomich and Farber's system to include a wave division de-multiplexer, as taught by applicant's conceded prior art, for the benefit of ensuring that the data and video signals to be distinguished from one another when transmitting over a fiber optic wire.

Conclusion

11. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in

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such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

Certificate of Mailing

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

on _____
(Date)

Typed or printed name of person signing this certificate:

Signature: _____

Registration Number: _____

Certificate of Transmission

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. () _____ - _____ on _____.
(Date)

Typed or printed name of person signing this certificate:

Signature: _____

Registration Number: _____

Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

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12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMES SHELEHEDA whose telephone number is (571)272-7357. The examiner can normally be reached on Monday - Friday, 9:00AM - 5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/James Sheleheda/
Examiner, Art Unit 2623

JS